

REMARKS

The undersigned thanks the Examiner for his assistance in the pursuit of a refund of charges assessed at the large entity rate in spring/summer 2009.

Claims 12-28 were pending in the application.

In this Amendment, claims 12, 14-16, 20, 23 and 25 are amended.

Claims 12-28 remain pending in the application. In addition, Applicant tenders the following remarks regarding the claims, prior art, and rejections:

Interview Summary.

Applicant respectfully corrects the Examiner's Interview Summary (Form PTOL-413B). While Applicant's 09 APR 2009 filing contained a typographical error, it was intended to read "Serial No. 10/521,987".

Claim Objection.

Claims 16 and 25 are amended herein to make clearer that both 170° and 210° are degrees Celsius. No new matter is added, nor is this amendment believed to have been made for purposes of patentability.

Rejection Under 35 USC § 112, ¶ 1.

Claims 12-28 are rejected as not satisfying the written description requirement as to "isothiazolone-based" antimicrobial agents. Claims 12 and 20 are amended herein to recite a Markush group of isothiazolone-based compounds, all of which find explicit support in the specification at, for example, paragraph [0021]. No new matter is added.

Rejection Under 35 USC § 112, ¶ 2.

Claims 12 and 20 are rejected as indefinite as to the term "isothiazolone-based". The amendment to claim 12 and 20 are believed to overcome this rejection.

Rejection Under 35 USC § 112, ¶ 2.

Claims 12 and 15 are rejected as indefinite as to the term “high density core fiberboard”. The rejection is respectfully traversed.

The use of fiberboard is well known in the laminating art, and Applicant submits that a person having ordinary skill in the relevant art (“PHOSITA”) further recognizes the working definitions of low-, medium- and high-density as applied to fiberboard for laminate manufacture.

As a ready example, Applicant offers US Patent No. 5925211, having an effective filing date of 21 APR 1997 and being directed to melamine laminate products. Its background section, at column 1, lines 15-23, discusses the typical use of a wood veneer over a “high density fiberboard”. Further, this reference at column 3, lines 24-29, uses the terms “low-, medium-, and high-density fiberboard”. Although a preferred density range is specified for medium-density fiberboard, no definitive ranges or parameters are given as these substrates are known in the art.

Claims 12 and 15 are amended herein to recite “high density fiberboard” in conformity with the terminology used in the prior art.

Rejection under 35 USC § 103(a).

Claims 12-28 stand rejected as unpatentable over USP 6248342 (Trogolo et al.) in view of USPP 20030065192 (Ghosh et al.). The rejection is respectfully traversed, although it is believed mooted by the present amendments to the claims.

The Examiner’s combination of Trogolo ‘342 and Ghosh ‘192 results in a melamine laminate article having two antimicrobial agents disposed therein. (Office Action, page 7: “It would have been obvious to one of ordinary skill in the art to add a second, isothiazolone based antimicrobial agent into the laminate of ‘342, to improve the antimicrobial efficacy of the composition.”)

The decorative laminate of claim 12 and the laminate article of claim 20 both recite a first antimicrobial agent, but no second antimicrobial agent. The asserted combination does not result in the claimed laminate article of either independent claim.

Claims 12 (and claims 14-19 depending therefrom) and claim 20 (and claims 21 and 23-28 depending therefrom) therefore are allowable over the references.

Applicant further asserts that Trogolo '342 fails to teach, suggest or otherwise provide guidance to the PHOSITA regarding the incorporation of an isothiazolone antimicrobial agent into a melamine laminate product. Trogolo '342 focuses on inorganic antibiotic metal containing compositions, preferably in particulate form. Such compositions have solubility profiles quite different from organic antimicrobial agents, such as the isothiazolone based compounds recited in the claims at issue. Water-insoluble isothiazolone based antimicrobial compounds gives rise to phase partitioning considerations in the melamine bath through which the kraft paper is pulled (to effect impregnation of the paper with melamine resin; see specification at page 8, lines 7-22).

Failure of the antimicrobial agent to remain distributed in the melamine bath negatively impacts uptake of the active compound into the kraft paper. In view of the solubility differences, the PHOSITA would hold no reasonable expectation of success upon simple substitution of an isothiazolone based compound for the inorganic antibiotic metal containing composition of Trogolo '342.

The inert nature of inorganic antibiotic metal containing compositions also should be noted. The melamine bath contains many reactive chemical members presenting little chance of harm to silver in a ceramic carrier. But an organic antimicrobial agent, however, has functional groups susceptible to chemical reaction with the melamine, formaldehyde, and/or other catalysts and cross-linking agents. A disclosure as to silver zeolite provides little reassurance to the PHOSITA that substitution with an organic antimicrobial agent can be accomplished without reactivity, solubility or other technical issues.

In view of the foregoing, claims 12-28 are allowable over the cited art.

CONCLUSION

Claims 12-28, as amended, are allowable over the cited art. The Examiner is urged to contact the undersigned if any issues remain outstanding.

Respectfully submitted,

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